IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 15019 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE D.N.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

WORKMEN OF S.T. CORPORATION

Appearance:

MS SEJAL K MANDAVIA for the Petitioner.

MR KISHOR M PAUL for the Respondent.

CORAM : HON'BLE MR.JUSTICE D.N.PATEL

Date of decision: 27/04/2005

ORAL JUDGEMENT

Rule. Learned counsel Mr. Paul waives service of notice of Rule on behalf of the respondent. This petition has been filed against the award dated 24th May, 2004 in Reference (IT) No. 192 of 1997 passed by

the Industrial Tribunal, Rajkot, whereby the order of punishment passed by the petitioner Corporation of stoppage of annual increments for five years with future effect has been set aside and it has been replaced by stoppage of two annual increments without future effect, for the misconduct that there was reasonable belief or possibility of reusage of issued tickets by the respondent workman-conductor.

2. The learned counsel for the petitioner mainly submitted that the respondent workman was working as a conductor with the petitioner Corporation. The respondent workman had kept with him, the tickets which were issued by him, so as to reuse them. There was also an overwriting in the way bill. It is submitted by the learned counsel for the petitioner that in the way bill, in column of Rs. 7.00 as well as in the column of Rs. 3.50 ps. and in the column of Rs. 0.25 ps., there was overwriting in the numbers. The respondent conductor, with an intention to reuse, issued tickets, kept with him certain tickets. This was found out during the checking by the checking squad of the petitioner and therefore, charge-sheet was issued, inquiry was conducted and the respondent workman was inflicted with punishment of stoppage of annual increments for five years with future effect. In fact, legality and validity of the inquiry has been accepted by the respondent workman and therefore, the only question left open for the Industrial Tribunal was to decide as to the quantum of punishment. Looking to the nature of misconduct and taking into account past conduct of the respondent workman, the punishment inflicted by the petitioner was absolutely proper and adequate and it cannot be labelled as shockingly disproportionate and therefore, the Industrial Tribunal ought not to have interfered with the punishment inflicted by the petitioner and hence, the impugned award passed by the Industrial Tribunal deserves to be quashed and set aside.

3. I have also heard the learned counsel for the respondent who has mainly submitted that punishment inflicted by the petitioner was absolutely harsh and shockingly disproportionate, looking to the nature of misconduct of the respondent workman. In fact, the whole charge levelled against the respondent was on the basis of mere doubt raised by the petitioner Corporation. In fact, there is no misappropriation by the respondent workman, nor there is use of, issued tickets, by the respondent conductor. In the way bill, there is some overwriting, but it cannot be labelled as a misconduct. At the most, there is some inaccuracy or discrepancy on

the part of the respondent workman in writing the way bill and the tickets which were found out from the respondent conductor which were already issued tickets was only a negligence at the most. But it cannot be labelled as a misconduct and, therefore, punishment has rightly been interfered with by the Industrial Tribunal and instead of stoppage of five annual increments with future effect, correctly the same has been reduced by stoppage of two annual increments without future effect. Hence, the impugned award passed by the Industrial Tribunal, Rajkot may not be interfered with by this Court in exercise of Articles 226 and 227 of the Constitution of India.

4. I have heard the learned counsel for both the sides at length and I have also perused the way bill and the nature of charge levelled against the respondent workman. Considering the nature of misconduct and the evidence on record, in my view, the impugned award is absolutely true and correct and I see no reason to interfere with the impugned award passed by the Industrial Tribunal, Rajkot, especially for the reason that there is no misappropriation by the respondent conductor. Looking to the nature of charge, it seems that there was a doubt in the mind of the petitioner Corporation that issued tickets were going to be utilised by the respondent conductor and therefore, the whole charge has been levelled against the respondent conductor. There was some overwriting in the way bill in certain columns. If the charge is looked into closely, it is apparent that the petitioner is having a reasonable apprehension that the respondent conductor, with a view to reuse the issued tickets, had preserved tickets with him. On the basis of possibility of re-usage of issued tickets, the whole charge has been levelled against the respondent workman. In fact, there is no reusage of the issued tickets nor even there is any attempt of reuse of the issued tickets. There is a vast difference between hundred possibilities and one truth. Hundred possibilities cannot be equated with one truth. In the present case, as per the petitioner, there was some possibility of reuse of issued tickets. But in fact, there is no such reuse of the issued tickets by the respondent conductor. Neither there is any attempt of reuse of tickets. Even in para-4 of the charge-sheet issued by the petitioner, it is mentioned that the petitioner had a doubt that the respondent workman, with a view to reuse the issued tickets has committed misconduct of preserving the tickets and overwriting in the way bill. It is true that there is some overwriting in the way bill. But the said misconduct was not capable

of fetching stoppage of five annual increments with future effect. In my opinion, it was shockingly disproportionate. Therefore, it is rightly interfered with by the Industrial Tribunal and has been reduced by stoppage of two annual increments without future effect. Thus, indecency in writing or overwriting in the way bill and preservation of issued tickets have been adequately punished by stoppage of two increments. Thus, I am in full agreement with the reasons assigned by the Industrial Tribunal in para-11 of the impugned award for reduction in the punishment. This Court is not sitting in an appeal in exercise of the powers under Articles 226 and 227 of the Constitution. Even if second view is possible, this Court is not inclined to interfere with the impugned award passed by the Industrial Tribunal, Rajkot. The petition is devoid of merits. It fails and is hereby dismissed. Rule is discharged with no order as to costs.

(D.N.Patel,J)

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